

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

09/18/2001

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

M. Cearfoss
Deputy

LC 2001-000271

FILED: _____

STATE OF ARIZONA

GERALD R GRANT

v.

GLORIA CROSSLIN-YOUNG

NEAL W BASSETT

REMAND DESK CR-CCC
TOLLESON JUSTICE COURT

MINUTE ENTRY

TOLLESON JUSTICE COURT

Cit. No. CR00-2156MI

Charge: INTERFERING WITH JUDICIAL PROCEEDINGS

DOB: 08-18-1959

DOC: 09-28-2000

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution, Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the

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Tolleson Justice Court, the exhibits made of record, and the memoranda submitted by counsel.

Appellant was charged with one count of Interfering with Judicial Proceedings in violation of A.R.S. Section 13-2810, a Class 1 Misdemeanor, committed September 28, 2000. Appellant's trial was held on April 18, 2001. This was a trial to the bench. At the conclusion of the trial, the judge found Appellant guilty. Appellant was sentenced the same date to a period of 24 months probation, 48 hours of jail, 40 hours of community service, a fine of \$300.00, and Appellant was ordered to stay away from 6901 W. Coolidge and Taleshia Breshears. Appellant filed a timely Notice of Appeal.

The only issue raised by Appellant on appeal concerns whether Appellant was **denied her right to a jury trial** in this case. Appellee correctly points out that the Appellant never requested a jury trial. In fact, Appellee specifically requested a bench trial.¹ Appellant claims that it was fundamental error of Federal Constitution magnitude for the trial court to fail to inform Appellant of a right to a jury trial. Despite Appellant's clear waiver, this Court finds that Appellant was not entitled to a jury trial as a matter of right. The issue of entitlement to a jury trial for Interfering with Judicial Proceedings in violation of A.R.S. 13-2810 appears to be a matter of first impression. This Court has been unable to discover any reported cases in Arizona dealing with that issue.

The Federal law is not helpful in regard to this issue. The United States Constitution requires that if a crime is punishable by more than six (6) months of incarceration, it is not a petty offense and the accused must be afforded the right to a jury trial.² Arizona has, in fact, extended the right of a

¹ Appellant's Motion to Set Trial Date - Bench, filed February 23, 2001, Tolleson Justice Court record on appeal.

² Lewis v United States, 518 U.S. 322, 116 S.Ct. 2163, 135 L.Ed.2d 590 (1996); Blanton v North Las Vegas, 489 US 538, 109 S.Ct. 1289, 103 L.Ed.2d 550 (1989).

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jury trial much further than guaranteed by the United States Constitution.³ The Arizona Supreme Court in McDougall⁴ listed four factors to evaluate in determining the right to a jury trial in the State of Arizona. The first three factors are found in Rothweiler v Superior Court⁵:

1. The length of possible incarceration;
2. The moral quality of the act charged (sometimes referred to as the "moral turpitude" issue);
3. Its relationship to common law crimes.

The fourth consideration comes from State ex rel. Dean v Dolny⁶, and requires that the Court evaluate whether additional serious or grave consequences might flow from the conviction.

The length of possible incarceration in this case is six (6) months imprisonment; the maximum possible sentence for all class 1 misdemeanors. This factor is not controlling as Defendants charged for other class 1 misdemeanors such as assault or disorderly conduct are not entitled to trials by jury⁷.

An evaluation of the moral quality of the act charged requires this Court to consider those facts which established Appellant's conviction. Appellant violated a Domestic Violence Order of Protection. Appellant was not charged with a crime involving dishonesty or fraud or any other type of crime involving a deficient moral character. This Court concludes the crime is not of such a moral quality that a jury trial would be required.

³ State ex rel. McDougall v Strohson, 190 Ariz. 120, 945 P.2d 1251 (1997).

⁴ Id.

⁵ 100 Ariz. 37, 410 P.2d 479 (1966)

⁶ 161 Ariz. 297, 778 P.2d 1193 (1989)

⁷ Goldman v Kautz, 111 Ariz. 431, 531 P.2d 1138 (1975); Bruce v State, 126

Ariz. 271, 614 P.2d 813 (1980); O'Neill v Mangum, 103 Ariz. 484, 445 P.2d 843 (1968).

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In considering the relationship of the crime, Interfering with Judicial Proceedings to common law crimes, this Court notes the similarity of the crime charged to criminal contempt. A.R.S. 13-2810 is, however, a separate crime from criminal contempt. This offense of Interfering with Judicial Proceedings had no common law antecedents.

Finally, this Court concludes that there are no sufficiently grave collateral consequences of a conviction of the crime of Interfering with Judicial Proceedings that would entitle Appellant to a jury trial.

This Court, therefore, concludes that the trial court was not required to advise Appellant of her right to a jury trial as there is no right to a jury trial for the crime of Interfering with Judicial Proceedings. The trial court committed no error.

IT IS THEREFORE ORDERED affirming the judgment and conviction and sentence of the Tolleson Justice Court.

IT IS FURTHER ORDERED remanding this matter back to the Tolleson Justice Court for all future proceedings.